

# **Confidential Release**

**Case Number:**

**90-1825-GA-COI**

**90-785-GA-ATA**

**Date of Confidential Document:**

**MARCH 1, 1991**

**Today's Date:**

**July 28, 2009**

**RECEIVED**

**MAR 1 1991**

DOCKETING DIVISION  
PUBLIC UTILITIES COMMISSION OF OHIO

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission )  
Investigation of the Suburban ) Case No. 90-1825-GA-COI  
Fuel Gas, Inc. Relating to the )  
Establishment of Rates. )

In the Matter of the Application )  
of The Suburban Fuel Gas, Inc. )  
to Establish Initial Rates and )  
Charges for Customers Served from ) Case No. 90-785-GA-ATA  
Municipally-Owned Transmission )  
and Distribution Lines Operated )  
under Long-Term Leases by the )  
Applicant. )

AMENDED MOTION TO DISQUALIFY

Now comes Suburban Fuel Gas, Inc., (hereafter Suburban), and amends its motion to disqualify filed on January 7, 1991. In that motion, Suburban requested, inter alia, the disqualification of Samuel C. Randazzo, Richard P. Rosenberry and the law firm of Emens, Hurd, Kegler & Ritter from representing Consolidated Biscuit Company, (hereafter Consolidated). The grounds for that motion arose when, on December 20, 1990, Emens, Hurd, Kegler & Ritter filed a motion to intervene in these proceedings and subsequently refused to withdraw upon demand by Suburban's attorneys. As set forth in that motion, Mr. Randazzo and the firm of Emens, Hurd, Kegler & Ritter were approached by Suburban regarding representation for the Case No. 90-785-GA-ATA, were given sensitive

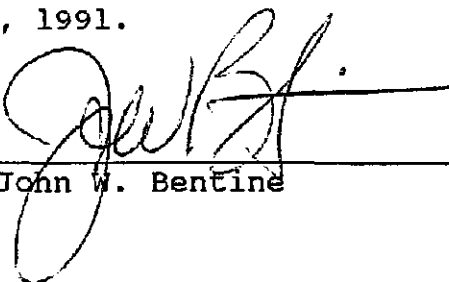
and critical confidential information in the context of the attorney - client privilege, and accepted representation of Suburban for purposes of what is now Case No. 90-785-GA-ATA. Subsequently, Emens, Hurd, Kegler & Ritter declined representation. On February 25, 1991, during the deposition of Mr. Randazzo, Suburban was shocked to learn that, according to Mr. Randazzo, since July 1990, the Village of McComb has been a client of that firm relative to Suburban's ATA filing, but had found it "unnecessary" to file a notice of appearance.

Although Suburban is not prepared to take a position on all the ramifications of this rather startling revelation, one thing is obvious and that is that Suburban's motion to disqualify must now be amended to include a prohibition on Emens, Hurd, Kegler & Ritter's representation, directly or indirectly, of the Village of McComb. Suburban specifically reserves its right to request this Commission to reconsider The Village of McComb's intervention or to request the Commission to limit the participation of The Village if it appears that Suburban's confidences have been breached.

As a final matter, Suburban would note that the Entry of February 7, 1991 in these matters could possibly be interpreted as requiring this amended motion to remain under seal since Suburban only discovered the additional representation of The Village of McComb by Emens, Hurd, Kegler & Ritter in a sealed deposition. Suburban believes this amended motion contains no confidential information and hereby requests the Attorney - Examiner to direct

CERTIFICATE OF SERVICE

A true copy of the foregoing was sent to John C. McDonald at  
65 East State Street, Suite 1800, Columbus, Ohio 43215 by hand  
delivery this 1st day of March, 1991.




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John W. Bentine

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this pleading be served on all parties and that it be filed. Certainly the attorney of record for McComb must be served. Suburban would also note that the amendment of this motion may require a continuance in the hearing date on the Motion to Disqualify, and indeed, given the eleventh hour nature of this newest revelation, will not object to such a continuance.

Respectfully submitted,

by   
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